

WILL OF DANIEL P. ERWIN

FRIENDLY SUIT TO SECURE A LEGAL CONSTRUCTION OF IT.

There Was a Second Will, Which Mr. Erwin's Death Kept Him from Signing—Other Court News.

A friendly suit for a construction of the will of the late Daniel P. Erwin will be filed in the Circuit Court by the beneficiaries of the instrument. Yesterday Ferdinand Winter, representing the Central Trust Company, filed a petition with Probate Commissioner Walker in which the necessity for an interpretation of the meaning of several clauses of the will and the clearing up of several uncertainties in it was asked. The will originally filed, and which names the Central Trust Company as trustee of the various trusts created by it, is vague in several parts because of the intention of D. P. Erwin to modify it before his death. The will was drafted by Ferdinand Winter, who was also delegated to prepare a second will, which he prepared for the signature of Mr. Erwin but neglected through inadvertence for several days to submit to him for signing. During the time, and, in fact, on the morning that Mr. Erwin was reported dead, Mr. Winter intended to submit the will to him to be signed.

The uncertain part of the will is in a clause which provides that all unimproved property of the estate shall be sold and the money realized from the sale applied to the mortgage indebtedness of the Denison Hotel Company, a part of the estate. Another clause provided that none of the Terre Haute property belonging to Mr. Erwin was to be sold, and incidentally that thought by the trustee to be included in the property which Mr. Erwin wanted disposed of. Another part of the will questioned arises from the sale of the Erwin homestead on North Meridian street to Charles L. Henry. The money—\$45,000—now in the hands of the trustee, and it is undecided how it shall be applied, whether to the mortgages on the property or in the improvement of other property.

The matter in most doubt is a clause which provides for the existence of a trust for thirty years, or until the death of the longest lived of the children of the testator, including his posthumous child, Daniel P. Erwin, Jr.

In order that the will might be construed by Judge Allen, Commissioner Walker granted the permission of the guardian of Daniel P. Erwin, Jr., to agree to the filing of the suit, which was decided on by the other heirs, Charles H. Erwin, Hannah Lockard Townley, Louise Erwin Coburn and Helen E. Coburn.

The death of Mrs. Demia Townley Erwin is mentioned in the petition which was filed, and in it the statement that the \$2,000 annuity provided for her in the will will, in pursuance to the directions of Mr. Erwin, revert to the trust for Daniel P. Erwin, Jr. The little boy is provided with an income of \$100 a month until he shall have reached the age of fourteen years, and \$200 a month until he attains his majority. At that time he will share with the other heirs in the division of the property.

GRADE CROSSING ACCIDENTS.

Two Damage Suits Based on Alleged Violation of City Ordinance.

Two suits resulting from the grade-crossing accident at the crossing of the Big Four tracks on April 11 have been filed in Room 3, Superior Court. Gustave Hauk, a commission merchant, asks \$250 damages for the wrecking of his delivery wagon and the killing of his horse, which was driven by Bert Kuttler, one of his drivers. Mrs. Patricia Motley, mother of fifteen-year-old Richard Motley, who died from the injuries he received in the accident, asks the court for an award of \$10,000 damages.

NATHAN MORRIS'S ESTATE.

He Left Property Worth in Excess of Sixty Thousand Dollars.

Dr. Joseph Haas was appointed administrator of the estate of his brother-in-law, Nathan Morris, the victim of the disastrous Eastern morning fire, by Probate Commissioner Walker yesterday. Dr. Haas qualified as administrator by furnishing a bond of \$5,000. The estate of the deceased is valued at something more than \$60,000, and Dr. Haas's appointment was made at the request of the two daughters, Mrs. Joseph Haas, Abraham Cohn and Mrs. Joseph Haas.

Greenacres Council Middle.

The brief of the State in the Greenacres Council case was filed yesterday. Last May the Council was a tie politically. Then John H. James, a Democrat, was elected mayor to succeed Jonathan Birch, Republican, and the Republicans found themselves confronted with the danger of losing control of the Council. One of the first things introduced an ordinance creating a new ward, rushed it through, and it was signed by Mayor Birch. The brief of the State, introduced by the new Mayor, John H. James, is that the ordinance was irregular in that it was not attested and signed by the clerk before being signed by the mayor. The brief contends that the will of the people is defeated if councils shall have the right of creating wards and appointing councilmen at pleasure.

THE COURT RECORD.

SUPERIOR COURT.

Room 1—John L. McMeister, Judge.

Elizabeth Neils vs. Christian Neils; divorce. Finding and decree for plaintiff at plaintiff's cost.

City Bond Company vs. P. C. Weyenberg et al. Defendants called and defaulted. Submitted. Evidence heard. Finding for plaintiffs against Lot 265 for \$249.50.

Hattie Rhoades vs. James Rhoades; divorce. Plaintiff dismissed. Judgment against plaintiff for costs.

Room 2—James M. Leathers, Judge.

Patrick Leary vs. John Crane; account. Defendant defaulted. Submitted to court. Evidence heard. Judgment against defendant for \$226, without relief, and costs.

John Cruise vs. George Swift Company et al.; damages. Dismissed as to Brown-Ketcham iron works. On trial by jury.

Room 3—Vinson Carter, Judge.

Earnest P. Scott vs. Ada Watts et al.; damages. Jury out.

CIRCUIT COURT.

Henry Clay Allen, Judge.

Cincinnati Barbed Wire Fence Company vs. D. A. Chenoweth et al.; damages. Finding for defendant. Judgment against plaintiff for costs. Costs paid.

Ruth M. Bosser vs. Charles H. McCarty et al. Trial resumed.

NEW SUITS.

Gus Hauk vs. C. C. & St. L. Railroad Company; damages. Superior Court, Room 3.

Thomas C. Scott vs. Frank J. Davenport; complaint on note. Superior Court, Room 2.

Patience Motley vs. C. C. & St. L. Railroad Company; damages. Superior Court, Room 2.

The City Bond Company vs. Joel Dupue et al.; complaint on improvement lien. Superior Court, Room 2.

Charles H. Schuck vs. Mary Schuck; divorce. Circuit Court.

HIGHER COURTS' RECORD.

SUPREME COURT.

—Minutes—

2090. Frank L. Landes et al. vs. State ex rel. Smith C. Matson, prosecuting attorney. Putnam C. C. Appellee's brief (8).

2088. Chris Copenhagen vs. State of Indiana. Appellant's reply brief (8).

APPELLATE COURT.

—Minutes—

460. Chicago & Erie Railroad Company vs. Edward L. Fox, by next friend. Porter

C. C. Notice of petition to add marginal notes served.

420. State ex rel. Catherine Graham vs. G. W. Walters, administrator, et al. Appellant's additional authorities.

470. Midland Steel Company vs. the Citizens' National Bank of Kokomo. Henry C. C. Appellant's amended assignment of errors.

354. Home Savings Association vs. Nobleville Monthly Meeting of Friends' Church. Hamilton C. C. Appellee's motion, notice and brief (8) to retax costs.

450. Moses D. Payne vs. Charles E. Moore et al. Putnam C. C. Appellee's petition (9) and brief (9) for rehearing.

459. Alexander Broadstreet vs. Mary M. Hall. Putnam C. C. Appellee's brief (8).

463. Blanche Goodwine vs. Putnam C. C. Appellee's petition for additional time. Granted sixty days.

464. William Ewing vs. James Ewing et al. Huntington C. C. Petition for additional time overruled.

412. Barton W. Quinn, administrator, vs. Chicago & Erie Railroad. Jay C. C. Appellant's additional authorities (8).

426. Frederick Schreiber et al. vs. Albert R. Worm. Marion S. C. Appellee's objection to submission.

WITH \$1,000,000 CAPITAL

GEO. J. MAROTT'S TRACTION COMPANY WILL BE BUILT.

Illinois Oil Companies Interested in Montpelier Field—New Fraternal Insurance Order—Other Concerns.

The Kokomo, Marion & Western Traction Company, in which George J. Marott, of Indianapolis, is a heavy stockholder, has increased its capital stock from \$100,000 to \$1,000,000. The secretary of state was also notified that the name of the company has been changed from the Kokomo, Converse & Marion Traction Company to the Kokomo, Marion & Western Traction Company.

Closely allied with this traction company is the Indiana Interurban Construction Company, of Kokomo, which filed articles of incorporation yesterday. The stockholders in each company are practically identical. In the traction company George J. Marott, Lee Hall, R. F. Cummins, L. J. Kirkpatrick, M. W. Coats, O. V. Darby, George E. Bruner, C. C. McFarland, H. D. Thomas, G. W. Norwood and T. C. McReynolds own stock. In the construction company George J. Marott, O. V. Darby, H. D. Thomas, C. C. McFarland, G. W. Norwood and George E. Bruner are prominent.

The capital stock of the construction company is \$200,000, of which Mr. Marott owns \$5,000. The construction company will have charge of building the line of the Kokomo, Marion & Western from Kokomo to Marion, Converse and Wabash, a distance of sixty miles. At Kokomo the line will connect with the road to Frankfort.

Two Illinois oil companies, with large interests at Montpelier, complied with the State law relating to foreign incorporations. The Pennington Oil Company is capitalized at \$100,000, of which \$15,000 is represented in Indiana business. The Jewel Oil Company has a capital stock of \$125,000, of which \$10,000 is represented in Indiana business. H. P. Malone, of Montpelier, is the State agent for both companies.

Supreme Council, Knights of the Orient, of Anderson, incorporated yesterday. The organization is of the fraternal insurance order, and the directors are Lewis Bies, Frank Moesamer and Elmer Fuqua are the directors.

The Citizens' Mutual Heating Company, of Indianapolis, incorporated. The capital stock is \$10,000. The directors are A. J. Crawford, Joseph Strong, Adolph Herz, Bert Kuttler, W. H. Albrecht, A. C. Ford and J. T. Beasley.

The G. F. Stethers Company incorporated. The capital stock is \$4,000. The directors are Charles Volle, Gottlieb Osterhage and Albert Stollings.

The Binkley Buggy Company, of Tipton, incorporated. The capital stock is \$20,000. The directors are Henry Binkley, H. A. Binkley, C. L. Lewis, C. L. Grisshaw and W. H. Marker.

The Sisters and Brothers of Charity, of Indianapolis, an association organized for mutual help in cases of sickness and death, filed articles of incorporation. Mary Denby is president, Lizzie Gaddis vice president, Arby Roney secretary and Mary Stafford treasurer.

REV. J. H. CRUM ACCEPTS CALL.

Kansas City Man Will Assume Pastorate of North Congregational Church.

A telegram was received yesterday afternoon from the Rev. J. H. Crum, of Kansas City, Mo., accepting the pastorate of the North Congregational Church. The church has not had a minister since the resignation of Dr. O. C. Helmig a few weeks ago, when Dr. Helmig went East.

The new pastor will come to Indianapolis highly recommended, as he has been in charge of a prominent church in Kansas City known as the Beacon Hill Church. He is a man of wide experience and well known in the Congregational Church. At one time Dr. Crum was pastor of the First Congregational Church of Terre Haute, the foremost church of that denomination in that city. He is a graduate of Oberlin College, Ohio, and has been in charge of the church since 1901.

Dr. Crum will be here a week from next Sunday to assume charge of the North Congregational Church. He preached a sermon some time ago in this city with a view to assuming the pastorate, and the members of the church were very favorably impressed. Next Sunday Prof. J. A. Forrest, of Butler College, will be in charge of the service.

As yet no action in regard to the consolidation of the North and Plymouth churches has been taken. The members of the North Congregational Church will be recalled that the Rev. H. C. Meserve was asked to resign from the latter church in the winter of 1902, and no one has been found to succeed him. At that time there was a good deal of speculation as to whether the two churches would be consolidated, and there is still some chance of this being done. The matter may again take shape after the installation of a new pastor of the North Church.

Martin Fell Four Stories.

John Martin, an elevator man employed by the Kincaid-Leggett Company, of Columbus, O., fell through the elevator shaft of the New Claypool Hotel yesterday afternoon and was seriously injured. Martin was arranging elevator wires on the sixth floor of the building when the support suddenly gave way and he fell with the elevator to the second floor. His injuries were attended by Dr. Towles, of the City Dispensary, and he was taken to his home at 1126 Olive street in the ambulance. Martin's injuries consist of a broken leg and a dislocated thigh.

The Teamsters' Strike in Rome.

We've heard the labor unions growing larger day by day and we've heard them ask for eight hours' work along with ten hours' pay.

The carpenters, the bricklayers, the men who drive the cabs.

All join in resolutions that their enemies are "scabs."

There's a strike in Holland, where stocks are high.

But the latest and the greatest is the teamsters' strike in Rome.

Old Calixtus Rafferty, who drives a sorrel pig.

Told young Demetrius Flannigan, he of the classic pug.

That Capital and Wrong were right together, check by check.

"O Tempora!" Demetrius said; "well, let us make peace."

Then from two Latin schoolboys they blew sundry specks of foam.

And this was the beginning of the teamsters' strike in Rome.

Hermistus Cassius Doogan sent his horses to the hay.

J. Ch. McFadden hid himself to a buffet.

Horatius Quinduno Carey took his "right of the street."

And played a game of schaukopf with the copper.

Old Catillus Equus Flynn, he of the foxy dome.

Was made highmuckalorum of the teamsters' strike in Rome.

Hall Calixtus Eternity City, sitting on its seven hills.

Now knows the meaning of a strike and its resultant ill.

No frisky young patrician, with a chorus girl in Can get a hack to take him o'er the Tiber from the shore.

And drummers who were wont to ride now hit the Latin loam.

This is the mournful ballad of the teamsters' strike in Rome.

—Chippewa (Wis.) Herald.

INSURANCE NEWS AND NOTES

It is reported that the Richmond County Mutual of Staten Island, is taking steps to reorganize as a stock company.

Robert Martindale, lately manager of the Insurance department of the Indiana Trust Company, has been succeeded by H. B. Holloway.

The loss ratio in New Jersey the past year was 112 per cent. The total premium receipts amounted to \$6,671,021, while the losses incurred were \$7,482,503.

The London Lloyds have placed insurance to the amount of \$100,000 on the Shamrock III, owned by Sir Thomas Lipton. The rate was 10 guineas for one year.

Dr. Wilmer Christian has disposed of the greater part of his stock in the Equitable Fire of this city, and has practically severed his connection with the company.

Ellsworth Dewey, formerly with the National Life and Trust of Des Moines, has been chosen field superintendent of the investment bond department of the Interstate Life of this city.

The State Life, of this city, made a gain of 46 per cent. in insurance written during the first three months of this year compared with the first three months last year and gained 51 per cent. in income.

One of the leading casualty companies is defending a suit on a policy on the rather peculiar grounds that the husband of the plaintiff practically committed suicide by forcing an officer to shoot him before submitting to arrest.

It was recently held by Judge Haney, of Chicago, that the notice necessary for cancellation of the policy by the company must be actual notice, and that mere mailing such notice is not sufficient when it is not received by the assured.

The Reliance Life Insurance Company has organized at Pittsburg with a capital of \$1,000,000 and surplus of \$1,000,000, making the entire assets \$2,000,000. J. H. Reed is president, A. F. McDonald is general manager and H. E. Forster is secretary.

Hillary Bell, editor of the Insurance Economist, the paper issued by the Mutual Reserve Life, and an officer and director of the company, was killed last week. Mr. Bell was widely known as an insurance critic and was also an artist of note.

The professors of insurance at Yale will be John K. Gore, actuary of the Prudential; J. M. Holcombe, ex-president of the Phoenix Mutual Life; John B. Langer, vice president of the Travelers, and Richard M. Bissell, vice president of the Hartford Fire.

The average rate of interest earned by the life insurance companies during the year 1902 was 4.02 per cent., according to the computations of the insurance commissioner of Connecticut. This is higher than the preceding year, when the rate was the lowest on record.

Since the risks in team insurance are so much greater in some cities than in others it has been suggested that the risks be classified by cities. The same might be said about all accident insurance, and it was reported not long ago that the number of casualties on the streets of Indianapolis has led the companies doing an accident business.

SOCIALER TURNVEREIN.

Annual Gymnastic Exhibition Will Be Given Next Friday Night.

Next Friday evening the Socialer Turnverein of this city will give its annual gymnastic exhibition in the spacious hall of the Germania House. This society is the oldest gymnastic society in the city, being over fifty years old, and during its existence many a weak, sick child has been restored to health by participating in the kind of gymnastics that will be shown at the coming exhibition. These annual entertainments are given for the purpose of showing the parents of those children the school of gymnastics what has been accomplished during the year, and since the attendance during the past year has been so large, the instructor has been enabled to prepare a programme of unusual interest.

The exhibition will be given by two participants of both sexes, ranging in age from six to thirty years, divided into classes according to the programme. There will be fourteen numbers, and one of the features of its execution will be the absence of intermissions. The exhibition will be held at the Germania House, and the city will be the aerial groupings in which the participants are clothed in white tight-fitting costumes, and the gymnastics will be in the air without any support whatever. The entertainment promises to be interesting in every respect.

Independent Turnverein.

The Independent Turnverein's gymnastic exhibition will be held at English's Opera House, Monday evening, April 27. It will be one of the best ever held in this city and will show many new calisthenic features.

LOOTED THE HOUSE.

Burglar Got Booty of Considerable Value from Henry E. Welland.

Bicycle Patrolmen Trimpe and Klefer were yesterday called upon to investigate the robbery of much valuable jewelry from the home of Henry E. Welland, at 1406 Lexington avenue. During yesterday afternoon a thief entered the house and after turning things topsy turvy left, carrying with him much valuable property. Among the things stolen was a diamond ring of much value belonging to Mrs. Welland, as well as other jewelry, including a watch and rings. The thief also stole a building revolver and some silverware and company. His burglary was discovered by finding out two small savings banks of the estimated monetary value of \$8. No trace of the thief could be discovered by the police.

HIGH SCHOOL NOTES.

Henry Austin Clapp, who is in the city delivering a series of lectures, will address the students of the Shortridge High School this morning at 9:30 on "The Value and Use of Words."

The dance given by the junior "frat" of Indians will take place to-night in the lower hall of the Brenneke Academy. About sixty invitations have been issued, and the affair will be one of the most elaborate social functions of the season.

On a motion of the prosecution in the trial of Senators Lodge (Edwin Friend), Jones (Myron Leckner) and Scott (Forrest Kaan) on a charge of treason in the Shortridge Senate, a continuance was granted until the week from to-morrow.

Everything is in readiness for the "all up" of the stage manager of the Shortridge theater this evening, when Dickens's "Cricket on the Hearth" will be presented by the 103 Dramatic Club, under the management of Miss Zella O'Hair and Miss Ray. The latter has been assisting in coaching the young troupe, and a final dress rehearsal was held last night that assured a successful performance. The curtain will rise promptly at 8, and tickets will be on sale at the door.

Horse Guilty of Vandalism.

A report was made to the police yesterday that some man had entered the yard of Mrs. Mary Rodgers, at 505 West Sixteenth street, taken her newly-washed clothes from the line and trampled on them. The bicycle police, after an investigation, found that the complaint was to be lodged against

ident insurance business to think seriously of raising the rates here. The companies, however, will continue to take the average risk of the entire country in regulating the rates.

In the opinion of the attorney general of Missouri the Aetna Life may transact a life and casualty business in that State, while in Ohio the attorney general holds exactly the opposite opinion, though the companies are going ahead while the courts are wrestling with the problem.

The case of P. H. Fitzgerald, of this city, against the Maryland Casualty Company, which caused a great deal of interest on account of the peculiarity of the claim, which was that he had suffered from an accident by sleeping on his hands, has thus far been favorable to the plaintiff.

The farmers' mutual insurance companies are likely to be compelled to make some heavy assessments to pay for the losses caused by the recent windstorm in the southwestern part of this State, since the greater part of the property destroyed was insured in the State mutual companies.

Suit has been begun by a former general agent of Tennessee against the Anchor Fire. On account of the trouble the company had with the Tennessee insurance department the company withdrew from the State, and, since it will not re-enter, its refusal gives rise to the claim of the agent for damages, which he put at \$5,000.

Agency appointments for Indianapolis are: Ed. D. Buckingham, Hartford Life; J. W. Roberts, Mutual Reserve Life; L. S. Walden, Mutual Reserve Life; E. C. Sullivan, New York Life; A. S. Surprenant, Fidelity Mutual Life; R. C. Wright, Mutual Reserve; Indiana Trust Company, Hartford Steam Boiler; Gregory & Appel, Continental Fire.

A resident of Brooklyn aged fifty-four took out an annuity policy, paying \$25.00 for a life annuity of \$17.154, payable quarterly. After one of the quarterly payments had been made the insured died, and his heirs have now brought suit for abrogation of the contract on the ground that the insured was mentally incompetent to make a contract.

A man in Thomasville, Ga., has sued the telephone company for a loss caused by fire in his house because the telephone would not work when he undertook to call up the fire department at a late hour of the night. The company demanded a dramatic grounds that it did not undertake to furnish service at unreasonable hours, but the demurrer was overruled.

The Importers and Traders, which is being organized by P. B. Armstrong, has not yet secured the subscriptions necessary for the plan contemplated. It is reported that several of the men who have been identified with the promotion of the company have withdrawn, but a large part of the subscription has been reported to have been received, and efforts are being made to secure the desired amount.

Actions for penalties will be begun against the Illinois Lloyds, who have been shown to be transacting business contrary to the State laws, and suits against others, including both injunction suits and actions for penalties, will be instituted. The reorganization of the Standard and Republic Lloyds are now instituting suits against the underwriters of those organizations, but it is thought that the judgments will not be of much pecuniary value.

SALES OF REAL ESTATE.

Thirty Transfers Made Matter of Record Yesterday.

Instructions filed for record in the recorder's office of Marion county, Indiana, for the twenty-four hours ending at 5 p. m. April 15, 1903:

Mary L. Barr to John W. Harrison, pt. of Lot 8, Augustus St. Sub. 1, 100.00

Martha A. Thompson et al. to Milton S. Myers et al. pt. of the n. w. 1/4, Sec. 20, Tp. 14, R. 2, 1,000.00

Sarah B. Canine to William L. Hubbard et al. pt. of the n. w. 1/4, Sec. 2, Tp. 14, R. 2, 1,000.00

Arline Rhodes to Lot 22, Augusta, 300.00

Adeline F. Schaefer to the n. w. 1/4, Sec. 17, Tp. 14, R. 2, 1,000.00

Adam J. Polak to A. M. Ogilvie et al. East Park Lot 17, A. M. Ogilvie et al. East Park 2,000.00

Adam J. Polak to A. M. Ogilvie et al. East Park Lot 17, A. M. Ogilvie et al. East Park 2,000.00

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Adam J. Polak to A. M. Ogilvie et al. East Park Lot 1